IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

Crl.MC.No. 1735 of 2007()

CC.45/2006 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG
CRIME NO.79/2004 OF CHITTARIKKAL POLICE STATION

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PETITIONER/ACCUSED NO.4:

PADMANABHAN.K.K., S./O.KUNHIRAMAN,
RESIDING AT MANGOD, WEST ELURI VILLAGE,
P.O.KOTTAMAM.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS:

STATE OF KERALA REP.BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1735 of 2007

Dated this the 30th day of May 2007

O R D E R

The petitioner is the fourth accused in a prosecution interalia under Section 394 read with 34 I.P.C. The alleged incident took place on 27/4/2004. Investigation is complete. Final report has been filed. Case has been registered by the learned Magistrate in 2006. The petitioner has not entered appearance so far. Consequently, the petitioner finds himself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, prayed that appropriate directions may be issued under Section 482 Cr.P.C.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before

the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007